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BROOKS KUSHMAN P.C./PGTL				LONG, FONYA M
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/707,387	<b>Applicant(s)</b> BENSON ET AL.
	<b>Examiner</b> FONYA LONG	<b>Art Unit</b> 4127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTC/G6/r8)  
 Paper No(s)/Mail Date 3/25/2004, 12/10/2003
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-20, as originally filed, are currently pending and have been considered below.

#### ***Drawings***

1. The drawings are objected to because Fig. 3, Fig. 5, and Fig 6 contain the term "casual factor" wherein the description the term "casual factor" is not mention. Rather, the term "causal factor" is mentioned in the description. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claim 17, the claims are directed to neither a "manufacture" nor a "process," but rather embrace or overlap two different statutory classes of invention. It is unclear whether Applicant is claiming a method or a system. See MPEP §2173.05(p) II or *Parte Lyell*, 17 USPQ2d 1548 (B.P.A.I., 1990).

- As per Claim 17, the claim recites the limitation "the web-based system" in Line 2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, examiner construes the limitation "the web-based system" to mean "the web-based method".

Claims 18-20 depend from Claim 17 and therefore contain the same deficiencies.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 17-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed to neither a "manufacture" nor a "process," but rather embrace or overlap two different statutory classes of invention. The claim discusses both a method and a system. "A claim of this type is precluded by the express language of 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only." See MPEP §2173.05(p) II or *Parte Lyell*, 17 USPQ2d 1548 (B.P.A.I., 1990).

Claims 18-20 depend from Claim 17 and therefore contain the same deficiencies.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1, 9, 10 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. (6,970,831).**

**As per Claims 1 and 17,** Anderson et al. discloses an audit survey module configured to display at least one audit survey and a number of audit questions for the audit survey (Col. 2, Line 67; Col. 3, Lines 1-7, discloses a survey system that displays

a survey with corresponding survey questions to a user); and a comment module configured to receive a comment and at least one selection from a number of selectable classifications provided by the comment module for describing the comment, wherein the comment module is used for classifying an answer to one of the audit questions (Col. 3, Lines 1-38, discloses a survey comprising of pre-defined survey groups, survey categories, and corresponding survey questions. The user selects form a host of pre-defined survey categories and corresponding survey questions. The user's response to each question is entered and recorded. For example, the system recovers the users comments when the user selects from the 1-5 scale for friendliness).

**As per Claim 9,** Anderson et al. discloses receiving a comment for transmission to a computer-readable medium (Col. 3, Lines 1-38, discloses the user's response to each question being entered and recorded); providing a number of selectable classifications for describing the comment (Col. 3, Lines 1-38, discloses a survey comprising of pre-defined survey groups, survey categories, and corresponding survey questions); receiving at least one selection from the number of selectable classification (Col. 3, Lines 1-38, discloses the user selecting from a list of pre-defined survey categories and corresponding survey questions); and transmitting the comment and the at least one selected classification to the computer-readable medium for auditing (Col. 3, Lines 1-38, discloses user's response to each question is entered and recorded).

**As per Claim 10,** Anderson et al. discloses receiving the comment and storing the comment for retrievable based on the at least one selected classification (Col. 3,

Lines 43-47, discloses receiving and recording customer's responses and the survey group and survey category being recorded along with the customer's responses).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 2, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of Barnett et al. (US 2003/0115092).**

As per Claim 2, Anderson et al. discloses the claimed invention as applied to Claim 1, above. However, Anderson et al. fails to explicitly disclose displaying a summary report and comment for each completed survey.

Barnett et al. discloses an audit system with the concept of a completed audit module configured to display a summary report and comment for each completed audit survey ([0047] discloses upon submission of a response to the last question, the user is presented with an updated summary page, and the user is then presented with the option of viewing the report that includes recommendations and comments that correlated with the user's answers to the survey questions).

Therefore, from the teaching of Barnett et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for

surveying customer service performance of Anderson et al. to include displaying a summary report and comment for each completed survey as taught by Barnett et al. to aid in evaluating user's responses to the questions in order to make any necessary improvements resulting from the responses received.

**As per Claim 5 and 12,** Anderson et al. discloses the claimed invention as applied to Claims 1 and 9, above. However, Anderson et al. fails to explicitly disclose displaying comment solutions.

Barnett et al. discloses an audit system with the concept of a comment solutions module configured to display comment solutions and to retrieve each comment solution for display based on at least one of the number of selectable classifications ([0024-0025] discloses the survey being divided into five sections for each section comments and recommendations are provided based on the user's responses).

Therefore, from the teaching of Barnett et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for surveying customer service performance of Anderson et al. to include displaying comment solutions as taught by Barnett et al. in order to determine the necessary improvements to be implemented as a result of the user's responses to the questions.

**10.   Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of Heckerman et al. (6,633,852).**

Anderson et al. discloses the number of selectable classifications provided by the comment module comprising at least one from the group consisting of a number of comment categories (Col. 3, Lines 20-32, discloses a survey being broken into groups,

wherein these groups are further subdivided into categories). However, Anderson et al. fails to explicitly disclose a number of causal factors.

Heckerman et al. discloses a buyer survey with the concept of a group consisting of a number of causal factors (Claim 12, Page 1, Line 9, discloses groups containing causal factors).

Therefore, from the teaching of Heckerman et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for surveying customer service performance of Anderson et al. to include a group consisting of a number of causal factors as taught by Heckerman et al. in order to identify the similarities of each group.

**11. Claims 4, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of McQuilkin et al. (US 2003/0204435).**

Anderson et al. discloses the claimed invention as applied to Claims 1, 9, and 17, above. However, Anderson et al. fails to explicitly disclose graphically displaying a classification selection frequency.

McQuilkin et al. discloses a method for collecting customer intentions with the concept of a graphical display module configured to graphically display a classification selection frequency for at least one of the selectable classifications ([0030] discloses a data table displaying categorized responses and their frequencies. Claim 1, discloses the frequencies representing the number of times a response is made for that category relative to other categories).

Therefore, from the teaching of McQuilkin et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for surveying customer service performance of Anderson et al. to include graphically displaying a classification selection frequency as taught by McQuilkin et al. to determine the most common topics in reference to the responses provided from the survey.

**12. Claims 6, 13, and 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of Malone et al. ("Internal Quality Audit Reporting/Corrective Action", September 2001).**

Anderson et al. discloses the claimed invention as applied to Claims 1, 9, and 17, above. However, Anderson et al. fails to explicitly disclose receiving a comment correction completion data and a corrective action module.

Malone et al. discloses a method for performing an internal quality audit with the concept of a comment module configured to receive a comment correction completion date and wherein the system further comprises a comment corrective action module configured to automatically obtain an evaluation rating for monitoring correction of each received comment based on a difference between the comment correction completion data and an updated comment correction completion data received by the comment corrective action module (Abstract, discloses receiving a corrective action completion data goal and receiving updates to the completion data goal or the actual date of completion into the Internal Audit Corrective Action Plan).

Therefore, from the teaching of Malone et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for

surveying customer service performance of Anderson et al. to include receiving a comment correction completion data and a corrective action module as taught by Malone et al. to aide in optimizing the time for resolving an issue noted in the survey.

**13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of Secrest (5,541,846).**

Anderson et al. discloses the claimed invention as applied to Claim 1, above. However, Anderson et al. fails to explicitly disclose displaying audit instructions.

Secrest discloses a system for providing audit procedures with the concept of an audit review module configured to display instructions for conducting an audit and to display instructions having described criterion for explaining selection protocol for each one of the number of selectable classifications (Col. 4, Lines 22-26, discloses displaying audit instructions that provide numerical requirements as well as attributes for determining "yes"/"no" or "pass"/"fail" answers).

Therefore, from the teaching of Secrest, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for surveying customer service performance of Anderson et al. to include displaying audit instructions as taught by Secrest in order to provide the auditor assistance and direction in conducting an audit.

**14. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of Prather et al. (US 2005/0033617).**

Anderson et al. discloses the claimed invention as applied to Claims 1 and 17, above. However, Anderson et al. fails to explicitly disclose a number of selectable assessment ratings for rating an audit survey.

Prather et al. discloses an audit survey module comprising a number of selectable assessment ratings for rating at least one audit survey and wherein the system further comprises an assessment module configured for selecting at least one audit survey and displaying the assessment rating for the selected audit survey (Abstract, discloses an audit score being generated to measure a degree of compliance. Scores may be presented for individual questions or may be aggregated for groups or categories of questions. Scores may be compared to desired threshold values and suggestions to improve the score may be provided).

Therefore, from the teaching of Prather et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for surveying customer service performance of Anderson et al. to include a number of selectable assessment ratings for rating an audit survey as taught by Prather et al. to provide an indicator of sufficiency of the answers provided.

**15. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of McQuilkin et al. (US 2003/0204435) as applied to Claim 14, above, and in further view of Gates et al. (US 2004/0220902).**

The Anderson et al. and McQuilkin et al. combination discloses the claimed invention as applied to Claim 14, above. However, the Anderson et al. and McQuilkin et

al. combination fails to explicitly disclose obtaining and displaying the top five selected comment categories.

Gates et al. discloses a system and method for providing categories based on information submitted with the concept of determining a selection frequency for each classification to obtain the top five selected comment categories and graphically displaying the selection frequency for the top five selected comment categories ([0028-0036] discloses a user deciding how many categories are to be displayed, sorting the list of categories by frequency, and selecting the top predetermined number of categories the user decides to show).

Therefore, from the teaching of Gates et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of the Anderson et al. and McQuilkin et al. combination to include obtaining and displaying the top five selected comment categories as taught by Gates et al. in order to identify the most relevant categories of focus for the audit.

**16. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,970,831) in view of McQuilkin et al. (US 2003/0204435) as applied to Claim 14, above, and in further view of Heckerman et al. (6,633,852) and Gates et al. (US 2004/0220902).**

The Anderson et al. and McQuilkin et al. combination discloses the claimed invention as applied to Claim 14, above. However, the Anderson et al. and McQuilkin et al. combination fails to explicitly disclose obtaining and displaying the top five selected causal factors.

Heckerman et al. discloses a buyer survey with the concept of classifying information by causal factors ([0075] Claim 12, discloses groups containing causal factors).

Therefore, from the teaching of Heckerman et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of the Anderson et al. and McQuilkin et al. combination to include causal factors as taught by Heckerman et al. in order to identify the similarities of each group.

Gates et al. discloses a system and method for providing categories based on information submitted with the concept of determining a selection frequency for each classification to obtain the top five selected and graphically displaying the top five selected ([0028-0036] discloses a user deciding how many categories are to be displayed, sorting the list of categories by frequency, and selecting the top predetermined number of categories the user decides to show).

Therefore, from the teaching of Gates et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system of the Anderson et al., McQuilkin et al., and Heckerman et al. combination to include determining a selection frequency to obtain the top five selected and graphically displaying the top five selected as taught by Gates et al. to identify the top five similarities of the groups in order to aide in determining the main issues that need to be resolved as a result of the audit survey.

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parker et al. (US 2002/0052774) discloses distributing a survey and collecting and analyzing the survey data.

Wong (US 2005/0102534) discloses a method for auditing the security configuration of an enterprise.

Rebane (7,013,285) discloses a system and method for data collection, evaluation, information generation and/or presentation.

Kesel (5,822,744) discloses a consumer feedback apparatus for collecting, analyzing, and reporting information on goods and services.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon/Fri [7:30am/5:00pm EST] with First Fri. Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571) 270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/  
Primary Examiner, Art Unit 3627

FML

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